IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8069 OF 2006

INDOFIL CHEMICALS COMPANY,THANE. ..PETITIONERS

V/S

MAHARASHTRA RAJYA MATHADI

TRANSPORT & GENERAL KAMGAR

UNION, MUMBI. ..RESPONDENTS

MR. P.K. RELE, SR. ADVOCATE WITH MR. P.N. ANAOKAR WITH MR. RAJESH RELE FOR PETITIONERS.

MR. ANAND GROVER WITH MRS. BHARATI PATIL FOR RESPONDENT NO. 1.

MR. SUNIL CHINCHWADKAR WITH MR. RAHUL NEELEKAR FOR RESPONDENT NO.2.

CORAM : A.P. DESHPANDE, J.

DATE : 9TH JANUARY, 2007.

P.C.

1. Respondent No. 1 - Kamgar Union filed a complaint (ULP) No. 247 of 2006 before the Member, Industrial Court, Thane, making a grievance that the present petitioner company has indulged in unfair labour practices, under item 9 and 10 of Schedule IV of the MRTU & PULP Act of 1971. An application for interim relief was also filed. As the Member, Industrial Court found that a strong prima facie case has been made out it has granted interim relief as prayed by the Respondent No.1. The said interim order was challenged by the

petitioner by filing Review Application which came to be dismissed. By the interim order the petitioner has been directed to provide to the members of the Union, the work as earlier undertaken by them in Toli No. 2009 in the production area.

2. It is undisputed that since January 2006 till date the Mathadi workers have been undertaking the work in the production area. It is the case of the petitioner that the work was undertaken by the Mathadi workers forcibly whereas it is the case of the Respondents that this practice of undertaking the work in production area is in vogue since long. The Member, Industrial Court by passing interim order has directed to provide the work to the members of the Union as before. In other words the Industrial Court has directed status quo ante to be continued.

3. The learned counsel for the petitioner submits that unless and until " employer-employee relationship " is undisputed or indisputable the Industrial Court cannot assume jurisdiction to entertain the complaint. Learned counsel has placed reliance on the judgement of the Supreme Court in the case of Cipla Ltd. v. Maharashtra General Kamgar Union & Ors. reported in 2001 I CLR 754. Perusal of the written statement reveals that

no such plea of absence of "employer-employee

relationship" and consequent lack of jurisdiction with the Industrial Court has been raised and thus not considered by the Industrial Court while passing the order under section 30(2) of the Act. In this view of the matter learned counsel for the petitioner seeks permission to file proper application before the Industrial Court, with a view to amend the written statement. Permission is granted. If the petitioner moves an application in that regard before the Industrial Court it shall decide the same in accordance with law.

4. Having regard to the peculiar nature of the dispute, in my view, expeditious disposal of the complaint would be in furtherance of the cause of justice. Hence I direct the Industrial Court to expeditiously decide the complaint, preferably within 6 months from today. With these observations the writ petition is dismissed summarily.

(A.P. DESHPANDE, J.)